

# CITY OF NEWPORT BEACH

## City Council Minutes Study Session and Regular Meeting June 24, 2014

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### I. ROLL CALL – 4:00 p.m.

Present: Council Member Gardner, Council Member Petros, Council Member Curry, Council Member Henn, Council Member Daigle, Mayor Pro Tem Selich, Mayor Hill

### II. STUDY SESSION

#### SS1. Clarification of Items on the Consent Calendar

Regarding Item 8 (Professional Services Agreement with William B. Connors for Newport Beach Municipal Code Title 20 and Other Hearings), Council Member Gardner noted that the candidate is from Pebble Beach and asked whether there are local candidates.

City Manager Kiff reported that the process is done through a Request for Proposal (RFP) and the candidate travels throughout the State, but understood that the City does not pay for travel expenses but will verify this.

#### SS2. Water Taxi Service [100-2014]

Harbor Resources Manager Miller introduced the item and deferred to Harbor Commissioner West for a report.

Harbor Commissioner West provided a PowerPoint presentation addressing the Mayor's assignment to assess the feasibility of a water taxi service in Newport Harbor on a pilot basis. He provided information regarding the Subcommittee, its objective, prior public meetings, community input and public comments, the fact-finding process, principal conclusions, the conceptual water bus route, and the Fort Lauderdale Water Taxi service.

Discussion followed regarding other tour companies providing service in Fort Lauderdale and subsidizing tour companies that compete with existing tour and rental companies.

Commissioner West discussed the Marina del Rey Water Bus.

Council Member Petros reported that the County is in the process of redeveloping Marina del Rey and asked whether the water bus is incorporated into the redevelopment plans. Commissioner West reported that it is and in response to Council Member Gardner's question, reported that he does not know what the loop time is but they charge a \$1.00 one-way fare and that patrons must be going to a specific destination on the route.

Commissioner West continued with the presentation and compared the Marina del Rey Water Bus with a potential service in Newport Harbor. He also addressed next steps.

Discussion followed regarding the level and types of vessels in Marina del Rey Harbor.

Harbor Commissioner Stapleton commented on changing technologies and addressed his research with existing applications, such as Uber and Lyft, noting that neither is interested in this type of model. He spoke with Visit Newport Beach (VNB) who indicated that an application could be

Council Member Petros agreed with Mayor Pro Tem Selich, noting that there are thousands of parking spaces in the City. He believed that this is a solution looking for a problem and commented on unique parking solutions being used throughout the U.S. and Europe which may need to be looked at in the future, but not at this time.

Council Member Curry stated that he did not know that the City had these and that, although it may be a tool for the City to use in the future, regulations are not needed at this time. He suggested addressing them on a case-by-case basis.

Jim Mosher stated that the Planning Commission expressed a sense of frustration since they were not the policy makers. Short of the Zoning Code, he believed that it would be helpful to the Planning Commission to communicate to them what the general feeling is about this.

The substitute motion carried by the following roll call vote:

Ayes: Council Member Gardner, Council Member Petros, Council Member Curry, Council Member Daigle, Mayor Pro Tem Selich, Mayor Hill

Nays: Council Member Henn

**15. An Urgency Ordinance of the City Council of the City of Newport Beach, California Establishing a Temporary Prohibition on the Issuance of Marine Activities Permits to Businesses Engaged in the Operation of Vessels Propelled by Water above the Surface of Newport Harbor [100-2014]**

Harbor Resources Manager Miller commented on the need for this emergency Ordinance and moratorium. He added that there is an operation currently in the Harbor and that he has received many comments as to whether that operation is appropriate or not.

In response to Council questions, Harbor Resources Manager Miller reported that this activity could be done in the ocean and clarified that air propulsion craft are not permitted in the Harbor. In regards to the apparatus, he indicated that the initial use is done remotely by the company operator to prevent injury or accidents. Additionally, he described water propulsion, the jet-ski type device, and how water pushes through the device up a tube onto a backpack. He reported that the ordinance will apply to new businesses, not existing businesses.

Council Member Curry noted that the device can be operated in the ocean to lessen the chance of ending up in a pier. Council Member Gardner stated that there would be less noise impact on neighbors in the ocean.

Council Member Petros indicated that he will support the emergency Ordinance and referenced a recent correspondence regarding noise, wakes, and damage to other vessels. He added that he will be looking for staff's thoughts on that as it determines a remedy.

Council Member Henn indicated that he will support staff's recommendation, adding that he has used the jet pack which has a kill switch controlled by the rental company personnel. He agreed that using the jet pack takes some skill, it uses a fair amount of footprint of water, and creates a wake. He believed that it would be worthwhile to have guidance from the Harbor Commission.

Council Member Curry agreed with staff's recommendations and stated that it is important to think about where these devices can be operated, how they work, what type of safety rules to implement, noise, parking, and impacts to neighbors. He suggested considering the matter in terms of creating a framework to broaden visitor-serving amenities going forward.

Devon Kelly reported that there is another company that is currently operating in Newport Bay. She expressed support of this matter due to safety and noise concerns.

Gus Caicedo, President of Fly Jet Sports, reported that he is currently applying for a permit and has been evaluating a business plan. He noted that he has also flown in the last two Christmas Boat Parades. In terms of safety and noise, he reported working closely with staff and asked for an exemption for individuals who have already addressed the issues and comply with requirements. He reported meeting Ms. Kelly to address her concerns and stated that he may be able to help Council to alleviate some of the concerns. He added that his operators are Navy veterans and are familiar with boating rules. He commented on the operation, noted that part of the problem has been with the routes, and reported addressing the movement of the system and that it can operate at 5 mph to move throughout the Bay.

David Quesada asked if the operators are able to monitor Channel 16 VHS, adding that Duffy's and those operators get lost in hulls of boats. He suggested adding a requirement that operators be able to monitor VHS-16 during the Christmas Boat Parade.

Dean O'Malley, Jet Pack America, stated that he has been operating for three years, adapted to accommodate residents, has gone through location and process changes, and that their goal is to have it work for the City, residents, and tourists. He added that the business is a draw to the City, and needs special consideration and can operate safely. Additionally, he stated that it can operate in the open ocean, but that it is not the safest place for beginners to learn. He reported that beginner pilots are in the Harbor, but have a lot of supervision. Regarding noise, he stated that they have gone mobile to be as minimally invasive as possible and reported that wedding boats are louder. He believed that the key is moving around the Harbor and expressed his willingness to work with the City. He noted that they are trying to minimize wakes and that he is not sure what damage has been done to boats. Additionally, during the Christmas Boat Parade, they have lit up their packs to be visible.

**Motion by Council Member Curry, seconded by Mayor Pro Tem Selich,** to adopt Urgency Ordinance No. 2014-11, *An Urgency Ordinance of the City Council of the City of Newport Beach Establishing a Temporary Prohibition on the Issuance of Marine Activities Permits to Persons or Business Engaged in the Operation of Vessels Propelled by Water Above the Surface of Newport Harbor*. This urgency ordinance shall remain in effect for a period of six (6) months, unless earlier repealed or extended by the City Council.

The motion carried by the following roll call vote:

Ayes: Council Member Gardner, Council Member Petros, Council Member Curry, Council Member Henn, Council Member Daigle, Mayor Pro Tem Selich, Mayor Hill

#### **16. Appointments to Boards and Commissions [38/100-2014]**

City Clerk Brown outlined the appointment process.

Jim Mosher expressed concern about the practice of reappointing incumbents. He suggested sending out summonses, similar to what is used for jury duty, for appointments to Boards and Commissions.

David Quesada asked that Council consider him for the Harbor Commission. Mayor Hill noted that there is an application process and provided details. He encouraged Mr. Quesada to participate in the next cycle of applications. Council Member Henn added that Mr. Quesada can fill out an application at any time and he will be notified when there is an open position available.